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OCCUPATIONAL LICENSES

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:	Case No. REA-2007-121
GEORGE E. HANEY, License No. LRA-86,	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER**
Respondent.	

This matter came on for hearing on May 14 and 15, 2008, before Jean R. Uranga, the designated Hearing Officer. George Haney appeared representing himself and Michael Gilmore appearing representing the Idaho Bureau of Occupational Licenses. Both parties presented testimony and evidence.

Following the close of the hearing, a briefing schedule was established. The Idaho Bureau of Occupational Licenses was given until June 27, 2008, to file their initial Brief. A copy of the IBOL's Post-Hearing Memorandum was received by the Hearing Officer June 30, 2008. Thereafter, both parties stipulated to allow Mr. Haney until August 29, 2008, to file his Rebuttal to Idaho Bureau of Occupational Licenses's Post Memorandum and Statement of Facts.

When the Hearing Officer reviewed the Rebuttal, it appeared Mr. Haney had failed to provide the Idaho Bureau of Occupational Licenses' attorney with a copy of the Rebuttal. Consequently, by letter dated September 22, 2008, the Hearing Officer granted the Idaho Bureau of Occupational Licenses until October 6, 2008, to file a reply to Mr. Haney's Rebuttal. By telephone call on or about October 6, 2008, Michael Gilmore advised the Hearing Officer that Idaho Bureau of Occupational Licenses would not be filing a response. At that point, the record was closed.

FINDINGS OF FACT

1. George E. Haney is licensed by the Idaho Real Estate Appraisers Board (License No. LRA-86) to practice residential real estate appraising. Mr. Haney's license was issued on December 2, 1991.

2. At all times mentioned in these Findings, Mr. Haney was licensed to practice and practiced real estate appraising in the State of Idaho.

3. On July 15, 1996, the Board entered into a Consent Order with Mr. Haney in Case No. REA-P3-03-95-009 for appraising a commercial property without the benefit of a state certified general real estate appraiser license and because the appraisal failed to meet USPAP Standards. The Board placed Mr. Haney on probation for one year and ordered Mr. Haney to take a 15-hour USPAP course. Mr. Haney objected to consideration of this prior Consent Order claiming that the Complaint did not refer to the

prior activities and the prior Consent Order was mentioned only to "besmirch Mr. Haney's reputation." Contrary to his contention, the Complaint, at Paragraph 5, does mention the 1996 Consent Order. The Hearing Officer finds that consideration of prior disciplinary action is relevant both to appropriate sanctions and to Mr. Haney's knowledge of USPAP Standards.

4. On August 18, 2003, the Board entered a Final Order against Mr. Haney in Case Nos. REA-L3-03-00-027 and REA-L3-03-01-018 for preparing four appraisal reports that did not comply with USPAP. The Board issued Mr. Haney a reprimand, placed him on probation for one year, ordered him to attend 8 hours of training in document organization and retention which may be directly related to USPAP Standards , and ordered him to reimburse the Board for the costs of the investigation and prosecution. Mr. Haney objected to consideration of this prior Final Order claiming that the Complaint did not refer to the prior activities and the prior Final Order was mentioned only to "besmirch Mr. Haney's reputation." Contrary to his contention, the Complaint, at Paragraph 6, does mention the 2003 Final Order. The Hearing Officer finds that consideration of prior disciplinary action is relevant both to appropriate sanctions and to Mr. Haney's knowledge of USPAP Standards. It is noteworthy that, in the current case, the Burley property appraisal was done while the prior 2003 case was pending and the Buhl property appraisal was done one month after the August 18, 2003, Final Order.

5. Carole Bennett testified as an expert witness for the Bureau of Occupational Licenses. Mr. Haney objected to her qualifications contending that an expert witness must attend the Nationally Standardized USPAP Instructor Training Course in order to evaluate others under USPAP. Such a requirement is not necessary of another appraiser to be qualified to testify as an expert witness on USPAP Standards. Mr. Haney has failed to establish that Ms. Bennett has a bias which would disqualify her testimony. In addition, her opinions in each case were consistent with opinions reached by three separate appraisers. Carole Bennett is qualified to express expert opinions on the Uniform Standards of Professional Appraisal Practice.

Findings for the Buhl Property

6. On or about September 15, 2003, Mr. Haney prepared an Appraisal Report (the "Buhl Appraisal Report") for property located at 4359 C Clear Lakes Road in Buhl, Idaho (the "Buhl Property"). The Buhl Appraisal Report evaluated the Buhl Property at $213,300. The Request for Appraisal for the Buhl Property in Mr. Haney's work file contained a box stating "Estimated Value: $213,300." The Request for Appraisal in Mr. Haney's work file was dated October 6, 2003, but there had been an earlier Request for Appraisal. Exhibit 101, page 15, is an invoice which shows an order date of September 25, 2003. The comments on the bottom of the October 6, 2003, Request for Appraisal from Mike Paskett with Stoneridge Capital, Inc., state: "Oh, man you have no idea how bad I didn't

want to ask you for anything else on this file." Mr. Paskett's comments further state: "I need a comment stating that the single wide has been removed and replaced by this larger home."

7. Mr. Haney's work file did not contain a copy of the original Buhl Appraisal Report submitted to the client. Mr. Haney's copy of the Buhl Appraisal Report in his work file differed from the original Buhl Appraisal Report submitted to the client in matters including legal descriptions, dates of sale, marketing times, zoning and other descriptions because Mr. Haney had recreated it after encountering computer problems.

8. The Buhl Appraisal Report established a "sales price" for the Comparable Sales Analysis by adding the price of various manufactured homes and set-up costs to an estimated market value of land. The line in the Comparable Sales Analysis listing "Sales Prices" did not show actual arm's-length sales of property in which a manufactured home already affixed to land was sold as a single piece of real property.

9. The Buhl Appraisal Report had no supporting comments disclosing that its "comparable sales" resulted from combining values of manufactured homes purchased from a dealer, set-up costs, and actual or estimated land sale prices, and that they were not actual sales of manufactured homes already affixed to real property used in the Appraisal Report.

10. The Buhl Appraisal Report appraised the Buhl Property as though a double wide manufactured home were on site in September

2003 when no double-wide manufactured home was actually delivered to the site until at least December 2003. The Buhl Appraisal Report at page 2 typed in "Existing" on the line of the form labeled "Existing/Proposed" under "General Description" and at page 3 checked the box by the words "as is", rather than the box by the words "subject to completion per plans and specifications." The Buhl Appraisal Report did not disclose that the new double-wide manufactured home that was appraised was not on site on the effective date of the report, but was expected to be on site in the future. The Buhl Appraisal Report was not stated as being "subject to plans and specifications." The Buhl Appraisal Report did not state a probable time of installation of the manufactured home on the Buhl Property.

11. The Buhl Appraisal Report stated that the remaining economic life of the Buhl Property was 55 years, but the information used in the Buhl Appraisal Report was from a Marshall & Swift Cost Handbook dated March 1989, not from then-current data.

12. The $141,980 cost of the manufactured home listed in the Buhl Appraisal Report (before amenities like added bath, deck, porch, etc.) was above the cost of $89,175.81 listed by the dealer and the manufacturer.

13. The values given for extra bath, porch, fireplace and appliances in the Buhl Appraisal Report were not supported by comments in the Report.

14. No depreciation was mentioned in the Buhl Appraisal Report, yet there was an existing garage/shop on site.

15. Mr. Haney submitted the Buhl Appraisal Report knowing that it was not accurate because he had prepared an earlier appraisal report for the Buhl Property that did not indicate the double-wide manufactured home was already on site. Mr. Haney prepared the Buhl Appraisal Report knowing that the manufactured home was not yet on site because the mortgage broker wanted an appraisal with inaccurate information indicating that the manufactured home was already on site.

16. Georgia Brown, a Licensed Idaho Real Estate Appraiser, conducted an appraisal field review and prepared a report dated December 31, 2003, which was admitted as Exhibit 103. Her report indicates that Mr. Haney misstated the cost of the new manufactured home and misstated the comparables were prior sales when they were all new manufactured home sales. None of the comparables sold as "complete package" arms length sales. She also found that Mr. Haney misstated that the new double-wide manufactured home was on site as of the inspection dated September 15, 2003. Ms. Brown found that the real market value of the property on September 15, 2003, was $150,000.

17. The IBOL's expert witness, Carole Bennett, also prepared a detailed report and testified regarding Mr. Haney's violations of USPAP Standards with respect to his appraisal of the Buhl property. Ms. Bennett found Mr. Haney violated the USPAP Ethics Rule: Conduct

by performing an appraisal in which the Order for Stone Ridge Capital, Inc., requested a predetermined opinion and conclusion. Such conduct also violates USPAP Ethics Rule: Management. Mr. Haney violated the USPAP Ethic Rule: Record Keeping by listing the property "as is" and indicating the building was "existing" and by not maintaining an original report for a period of five (5) years. Such conduct also violates the competency rule of USPAP Standards. Mr. Haney violated USPAP Standards Rule 1-1(a), (b) and (c) by using comparables that were not actual arms length sale transactions. Mr. Haney violate USPAP Standards Rule 1-2(f) by failing to note that the appraisal report would be subject for plans and specifications" and by using comparables which were not sales of existing properties. Mr. Haney violated USPAP Standards Rule 1-3(a) by misstating the economic life of the subject property and using an expired and dated Marshall & Swift Book. Mr. Haney violated USPAP Standard Rule 1-4(a)(b)(i)(iv) by failing to use arms length sales transaction as comparables and by combining the value of the home and the value of the land. His appraisal was misleading in violation of USPAP Standard 2 and Rule 2-1(a)(b) and (c).

18. The Buhl Appraisal Report failed to clearly and accurately set forth the appraisal in a manner that did not mislead the client.

19. The Buhl Appraisal Report's final reconciliation was based upon sales comparison "data' that were not actual sales; the

cost approach was not mentioned in the reconciliation (although the purported sales comparison data were actually cost approach data).

20. The Buhl Appraisal Report lacked verifiable, credible and supportable information. The Buhl Appraisal Report depended on "sales" listed in the Sales Comparison Analysis, but the "sales" were not true sales; thus, the market value created was not reliable.

21. The Buhl Appraisal Report reached a predetermined value and listed the double-wide as being on site.

Findings Regarding the Burley Property

22. On or about July 20, 2003, Mr. Haney received a Request for Appraisal for property at 497 S. 650 E., Burley, Idaho (the "Burley Property"). On or about August 20, 2003, Mr. Haney prepared an appraisal report for the Burley Property (the "Burley Appraisal Report") that estimated value of the Burley Property as of August 10, 2003.

23. The Request for Appraisal indicated an estimated value of $110,000 while the Burley Appraisal Report showed a market value of $108,200. There was a letter dated July 20, 2003, to Mr. Haney from Carol Hughes with the client mortgage company stating that the borrowers purchased the house on June 19, 2003, for $69,100, but the Burley Appraisal Report showed a sales date of 6/03 and a sales price of $72,000. The client mortgage company's loan officer informed Mr. Haney that the house was on the market for a long time and originally listed for over $90,000. She also stated that the

real estate market was relatively soft and opined that it was a great house that was definitely valued for a lot more than the borrowers paid for it.

24. The Burley Appraisal Report's Sales Comparison Analysis used five sales, but the lowest sales price was $90,000 and the highest was $130,000. These were poor comparables because the actual selling price of the Burley Property two months before was $69,100 (according to the mortgage company) or $72,000 (according to the Burley Appraisal Report). All of the Burley Appraisal Report's sales comparisons were in higher value ranges and none bracketed the Burley Property's sales price earlier in the year.

25. Mr. Haney's work file for the Burley Appraisal Report did not contain sufficient information to support its findings and conclusions. The work file did not show that Mr. Haney actually inspected the property (*e.g.*, there were no hand-drawn dimensions of the property, no statements on component materials for condition of improvements, and no interior pictures). The work file did not contain a copy of the original report submitted to the client because Mr. Haney had to recreate it after encountering computer problems.

26. The copy of the Burley Appraisal Report in Mr. Haney's work file differed from the Burley Appraisal Report given to the client, including differing comments about the neighborhood, differing descriptions of improvements, cost approach figures, differing photographs of the Burley Property and of the

comparables, differing cost approach depreciated and indicated values, and differing descriptions of improvements.

27. There were errors and poor data used in the Burley Appraisal Report's cost approach, effective age and remaining economic life. The information used for these analyses were taken from Marshall & Swift materials dated March 1987, which were not then current and did not relate to the 2003 market.

28. The Burley Appraisal Report stated that the 2003 sale was a distress sale, that the Burley Property had been vacant for approximately two years, that the yard had gone to weeds, and that the home was in poor condition, but since the sale the home had been cleaned, the yard maintained, and the value increased correspondingly, but there was no explicit adjustment for this change in condition or use of the "as is" price as a starting point for the appraisal.

29. Data from public records (FEMA information maps) were omitted.

30. No major upgrades were made to the Burley Property to reduce its effective age or to increase its value over the sales price of $69,100 on June 19, 2003 to $108,200 on August 20, 2003. The Burley Appraisal Report did not explain how the value of the Burley Property could increase by over half of the sales price in such a short time with only clean-up, and there were no supporting comments in the work file to substantiate this increase value.

31. The Burley Appraisal Report stated that the effective age of the Burley Property was 15 to 20 years while its actual age was 58 years. The Burley Appraisal Report did not indicate upgrading of the home that would have lowered the effective age this much. The Burley Appraisal Report did not provide enough information about the home's condition and maintenance to support a higher value.

32. Mac Mayer, an Idaho Licensed Residential Real Estate Appraiser, did an appraisal field review report on June 9, 2004. He found multiple errors in Mr. Haney's report and estimated the value of the subject property as $72,000 on August 20, 2003. Mr. Mayer noted that Mr. Haney recorded incorrect sales information for the property and did not take into consideration the actual purchase price of the property a few months prior to the appraisal. The comparables Mr. Haney utilized were inappropriate.

33. Carole Bennett reviewed the appraisal on behalf of the Idaho Bureau of Licenses and submitted a detailed report. Her report establishes multiple violations of USPAP Standards.

34. The Burley Appraisal Report made predetermined opinions and conclusions of value.

35. The Burley Appraisal Report reported false information and was prepared in a careless and negligent manner.

36. The Burley Appraisal Report's misleading data, errors and omissions failed to clearly and accurately set forth the appraisal in a manner to enable the client to understand the report properly.

37. The Burley Appraisal Report lacked sufficient information and analysis to be understood and properly supported.

Findings Regarding the Shoshone Property

39. On or about February 15, 2006, Mr. Haney received a Request for Appraisal for 105 E. 620 N., Shoshone, Idaho (the "Shoshone Property"). On or about February 19, 2006, Mr. Haney prepared an appraisal report (the "Shoshone Appraisal Report") for the Shoshone Property.

40. The Shoshone Appraisal Report's work file did not contain sufficient information to support the findings and conclusions.

41. The Shoshone Appraisal Report's choice of comparables and their interpretation were poor. The Shoshone Appraisal Report listed the home on the Shoshone Property as 917 square feet and used sales comparison approach comparables of 1950 square feet, 1,500 square feet, 1,052 square feet, and 1,068 square feet. All of the comparables had larger living areas. The Shoshone Appraisal Report listed the Shoshone Property's site at 5.037 acres and used comparables with sites of 5, 2.4, 20, and 12 acres. The Shoshone Appraisal Report's sales comparison analysis did not find and use sales of homes similar to the Shoshone Property in square footage or acreage. The Shoshone Appraisal Report used comparables that were 47, 22 and 66 years old and in good condition while the Shoshone Property was 76 years old and in average condition, which required large adjustments: -19.3%, -20.2% and -10.5% net adjustments and 31.0%, 33.1% and 27.0% gross adjustments. By using sales

of homes larger than the subject, the value range was higher, and large line adjustments had to be made.

42. The Shoshone Appraisal Report used information from Marshall & Swift from March 1989, and its cost quotes did not relate to construction costs in 2006. Mr. Haney's work file referred to Marshall & Swift cost data from March 1989. The Shoshone Appraisal Report applied a cost multiplier of 1.45 to March 1989 data without explaining the origin of this unsupported figure, which was Mr. Haney's estimate of the increase in market value of homes.

43. The Shoshone Appraisal Report stated the effective age of the Shoshone Property as 10 to 15 years while its actual age was 76 years. The improvements to the home identified in the Shoshone Appraisal Report did not show an effective age of 10 to 15 years. By not supporting and explaining the Shoshone Appraisal Report's remaining economic life of 50 years, the Report submitted an unsupported assumption.

44. The work file for the Shoshone Appraisal Report did not verify the Shoshone Property's living area, which was listed as 917 square feet, but another appraiser's report for the Shoshone Property done by Jay Hartman effective April 19, 2006 (about two months later) used a smaller living area of 786 square feet. The Shoshone Appraisal Report did not analyze the cost approach correctly (*e.g.*, it used outdated information), and depreciation was hard to determine.

45. The Shoshone Appraisal Report emphasized the sales comparison approach in the final reconciliation of value. The Shoshone Appraisal Report stated that the cost approach reflected the upper end of the value range and tended to support the estimated value, but the Shoshone Appraisal Report's Cost Approach value of $107,300 was lower than its Sales Comparison Approach values for the three comparables selected: $109,800, $111,700, and $111,900 (which yielded $110,000 under the Sales Comparison Approach). The Shoshone Appraisal Report's Final Reconciliation of $110,000 was thus internally inconsistent.

46. Donald Ward, an Idaho Licensed Real Estate Appraiser, did a field review of Mr. Haney's appraisal with a report dated April 10, 2006. Mr. Ward found that three of the comparables sales are not good comparables due to their newer age and larger size. Mr. Ward also concerned that Mr. Haney noted the subject had significant upgrading, but Mr. Haney then went ahead and adjusted the comparables for age and condition.

47. Jay Hartman, an Idaho Licensed Real Estate Appraiser, also did an appraisal of the property on April 18, 2006. He found the current market value of the property to be $83,000.

48. Carole Bennett performed a review for Idaho Bureau of Occupational Licenses and prepared a report concurring that there were multiple problems with Mr. Haney's appraisal of the Shoshone property.

49. The Shoshone Appraisal Report's cost approach was unreliable because of inaccurate information.

50. The Shoshone Appraisal Report's sales comparison approach did not reflect the best comparable sales in the market.

51. There were too many errors in the Cost and Sales Comparison Approaches for the Shoshone Appraisal Report to contain a reasonable market value, which caused the Shoshone Appraisal Report to be misleading.

Conclusions of Law

1. The Idaho State Board of Real Estate Appraisers (the "Board") has authority to regulate the practice of real estate appraising in Idaho. The Board has authority to initiate disciplinary contested case proceedings against licensed appraisers, pursuant to Idaho Code § 54-4106(2)(h) and § 54-4107.

2. Appraisers licensed or certified by the Board are required to comply with the Act and the Board's rules adopted pursuant to the Act. Idaho Code § 54-4106(2)(b) and §54-4107(1)(d).

3. The Board is authorized to adopt the Uniform Standards of Professional Appraisal Practice (USPAP) as a rule. The Board adopted the 2002 Edition of USPAP effective from May 3, 2003, to March 19, 2004. The Board adopted the 2005 Edition of USPAP effective from April 6, 2005, to April 10, 2006. Since at least March 13, 2002, the Board has required licensed and certified appraisers to comply with the requirements of the USPAP edition in effect at the time. Idaho Code § 54-4110(2); IDAPA 24.18.01.004,

Idaho Administrative Code (2003 and 2004 codifications); IDAPA 24.18.01.004, Idaho Administrative Code (2005 and 2006 codifications); IDAPA 24.18.01.700 (2002 through 2007).

Conclusions of Law for the Buhl Property

4. Mr. Haney did not keep a copy of the original or first Buhl Appraisal Report in his work file for the Buhl Appraisal, in violation of USPAP Ethics Rule Record Keeping (2002).

5. Mr. Haney established a "sales" price under the sales comparison method in the Buhl Appraisal Report by adding together the cost of purchase of a manufactured home, set-up costs, and an estimated or actual market value of the land, and did not disclose the comparables were not existing sales, in violation of USPAP Standards 1-1(a), (b) and (c) (2002).

6. Mr. Haney did not list an extraordinary assumption in the Buhl Appraisal Report that the new manufactured home appraised in September 2003 was not on site at the time of the appraisal and would not be on-site until December 2003. Mr. Haney's Buhl Appraisal Report further reported the appraisal as "as is" and not as "subject to completion per plans and specifications." Mr. Haney's Buhl Appraisal Report further used "comparable sales" that were not actually sales. These actions violated USPAP Standards 1-2(f) (2002).

7. Mr. Haney's Buhl Appraisal Report valued the Buhl Property as though it had a remaining economic life of 55 years, but there was no data to support this evaluation. Mr. Haney's

September 2003 Buhl Appraisal Report relied upon data from the March 1989 Marshall & Swift handbook, which was outdated. Mr. Haney's Buhl Appraisal Report did not use arm's length sales data for its Sales Comparison Analysis; used the cost of a manufactured home plus set-up costs plus estimated or actual land values as a substitute for sales comparison data; did not list a probable time for completion of installation of the double-wide manufactured home that was appraised; used costs of the double-wide manufactured home that were above dealer or manufacturer prices; gave high values for an extra bath, porch, fireplace and appliances that were not supported by comments; and did not show depreciation for an existing structure. These actions violated USPAP Standards 1-4(a), and (b)(i)-(iii) (2002).

8. Mr. Haney's Buhl Appraisal Report did not clearly and accurately set forth the appraisal in a manner that was not misleading. The Buhl Appraisal Report used data that are not acceptable under USPAP (calculated figures were reported as actual sales). Mr. Haney's copy of the Buhl Appraisal Report in his work file did not match the client's copy. The Buhl Appraisal Report did not list the extraordinary assumption that the double-wide manufactured home that was appraised was not yet on site. These actions violated USPAP Standards 2-1(a), (b) and (c) (2002).

9. Mr. Haney's Buhl Appraisal Report's final reconciliation of value was supposedly based upon sales comparisons (but was not) and ignored the cost approach. The Buhl Appraisal Report lacked

verifiable, credible and supportable information. The Buhl Appraisal Report emphasized sales comparison data, but the supposed "sales" were not true sales, so the supposed "market values" were not reliable. These actions violated USPAP Standards Rule 1-5(c) (2002).

10. Mr. Haney's failure to abide by the requirements of USPAP in the creation of the Buhl Appraisal Report violated the laws and rules governing real estate appraisal practice in Idaho. Idaho Code § 54-4107(1)(e) and IDAPA 24.18.07.700.

Conclusions of Law for the Burley Property

11. Mr. Haney's ultimate estimate of value of the Burley Property in the Burley Appraisal Report show that he adopted a predetermined value suggested by the loan officer. These actions violate USPAP Ethics Rule: Conduct (2002).

12. The request for appraisal and the letter from the loan officer shows that Mr. Haney's Burley Appraisal Report reached a predetermined value and was improperly influenced as to the value to be reached and as to his choice of sales comparables, which were in higher value ranges. These actions violate USPAP Ethics Rule: Management (2002).

13. Mr. Haney's work file did not contain sufficient information to support the findings and conclusions or to show that he actually inspected the property and did not contain a copy of the original report submitted to the client. The neighborhood comments in the work file were different from those in the lender's

appraisal report. Data from public records (FEMA maps) were omitted. These actions or omissions violated USPAP Ethics Rule Record Keeping (2002).

14. Comparable sales in the Burley Appraisal Report were poorly selected because they were all higher priced than the Burley Property and did not bracket the Burley Property. The Burley Appraisal Report had no explicit adjustment for the changes in condition or use of the sales price as a starting point for the appraisal. The Burley Appraisal Report did not explain the large increase in value since the recent sale or discuss whether there were upgrades to justify such an increase. The appraisal report was prepared in a careless and negligent manner. These actions violated USPAP Standards 1-1(a), (b) and (c).

15. The Burley Appraisal Report used Marshall & Swift data for its cost information, effective age and remaining economic life, but these figures were from March 1987. The Burley Appraisal Report stated that the effective age of the Burley Property of 15-20 years while its actual age was 58 years and did not indicate upgrading of the home that would have lowered the effective age this much. These actions violated USPAP Standards 1-3(a).

16. The Burley Appraisal Report used five comparables sales, but the lowest sales price was $90,000 and the highest was $134,900, which were poor comparables because the selling price of the home two months before the appraisal was $69,100. The Burley Appraisal Report did not explain how the value of the home could

increase by over half of the sales price in such a short time, and there were no supporting comments in the file. The Burley Appraisal Report did not provide enough information about the house's condition and maintenance to support a higher value. This actions or omissions violated USPAP Standards 1-4(a) and (b).

17. The Burley Appraisal Report's data, errors and omissions were misleading and failed to clearly and accurately set forth the appraisal in a manner to enable intended users to understand the report properly. These acts and omissions violated USPAP Standards 2-1(a), (b) and (c).

18. The Burley Appraisal Report lacked sufficient information and analysis to be understood and its reconciliation of values was not properly supported. For a value to be so substantially higher than the sales price, it was necessary to provide the users information to support the conclusion and not to have substantial errors, poor data and wrongful supporting data. These acts and omissions violated USPAP Standards 1-5(b) and (c).

19. Mr. Haney's failure to abide by the requirements of USPAP in the creation of the Burley Appraisal Report violated the laws and rules governing real estate appraisal practice in Idaho. Idaho Code § 54-4107(1)(e) and IDAPA 24.18.07.700.

Conclusions of Law for the Shoshone Property

20. The work file for the Shoshone Property did not contain sufficient information to support the findings and conclusions. These omissions violated USPAP Ethics Rule: Record Keeping (2005).

21. The Shoshone Appraisal Report's choice of comparables and their interpretation were poor. Mr. Haney should have found and used sales similar to the subject in square footage and acreage. Poor comparable sales caused the Shoshone Appraisal Report to be misleading. The Shoshone Appraisal Report used information from Marshall & Swift from March 1989, and its cost quotes did not relate to construction costs in 2006. Moreover, the Shoshone Appraisal Report and another appraiser's report for the Shoshone Property done two months later differed in data like taxes, source of heating and square footage. The acts violated USPAP Standards 1-1(a), (b) and (c) (2005).

22. The Shoshone Appraisal Report's work file referred to Marshall & Swift cost data from March 1989. The Shoshone Appraisal Report used a cost multiplier of approximately 1.45 without explaining the origin of this unsupported figure. The Shoshone Appraisal Report stated the effective age of the Shoshone Property as 10 to 15 years while its actual age was 76 years. The improvements to the home in the Shoshone Appraisal Report did not show an effective age of 10 to 15 years. By not supporting and explaining the Shoshone Appraisal Report's remaining economic life of 50 years, Mr. Haney submitted an unsupported assumption. These acts or omissions violated USPAP Standards 1-3(a)

23. The Shoshone Appraisal Report's data collection was poor. The Shoshone Property was a small home while the comparables were from 100 to 1,000 square feet larger. By using sales of homes

larger than the subject, the value range was higher, and large line adjustments had to be made. The work file materials did not verify the subject's living area, and another appraiser's report done two months later used an even smaller living area. The Shoshone Appraisal Report did not analyze the cost approach correctly by using outdated information, and depreciation was hard to determine. These acts and omissions violated USPAP Standards 1-4(a) and (b).

24. The Shoshone Appraisal Report emphasized the sales comparison approach in the final reconciliation of value. The Shoshone Appraisal Report stated that the cost approach reflected the upper end of the value range and tended to support the estimated value, but the cost approach was lower than the value established by the sales comparison approach, so the report was internally inconsistent. The sales comparison approach did not reflect the best comparable sales in the market. The cost approach was unreliable because of inaccurate information. There were too many errors in the two approaches for the Shoshone Appraisal Report to contain a reasonable market value. These acts violated USPAP Standards 1-6(2005).

25. Mr. Haney's failure to abide by the requirements of USPAP in the creation of the Shoshone Appraisal Report violated the laws and rules governing real estate appraisal practice in Idaho. Idaho Code § 54-4107(1)(e) and IDAPA 24.18.07.700.

RECOMMENDED ORDER

Based upon the foregoing, pursuant to Idaho Code §54-4107, the Hearing Officer concludes the Real Estate Appraiser's Board has authority to impose disciplinary sanctions against Mr. Haney, taking into consideration that Mr. Haney has been previously disciplined twice for violations of the Real Estate Appraiser's Act.

DATED This 7th day of November, 2008.

Jean R Uranga

JEAN R. URANGA
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 7th day of November, 2008, I served true and correct copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

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